

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Council Members

FROM/PHONE: Bill Underwood/797-1050
Document Prepared by: Bill Underwood/797-1050

SUBJECT: Ordinance

AFFECTED DISTRICT: N/A

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO CONFORM WITH THE MINIMUM BENEFITS OF CHAPTER 175, FLORIDA STATUTES; AMENDING SECTION SIX OF THE PLAN TO PROVIDE FOR NORMAL RETIREMENT AT AGE FIFTY-FIVE WITH TEN YEARS OF SERVICE; AMENDING SECTION EIGHT OF THE PLAN TO PROVIDE FOR MINIMUM DISABILITY BENEFITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: As the Council maybe aware, certain changes to the Fire Pension Plan are needed to mitigate some of the minimum requirements required by Chapter 175. This ordinance increases the disability benefits for service incurred injuries to 42% and 25% for non-service related injuries. Further, this legislation reduces retirement age to 55 with 10 years of service.

As a result, we respectfully request Town Councils approval to the attached ordinance on the first reading.

PREVIOUS ACTIONS: Town Council previously approved resolution number R-2000-107 on May 17, 2004.

CONCURRENCES: Town's counsel reviewed the attached ordinance and provides their comments on the attached letter.

FISCAL IMPACT:

Has request been budgeted? Yes

If yes, expected cost: Fire Department salary account.

Additional Comments:

RECOMMENDATION(S): Motion to approve the ordinance.

Attachment(s):

Ordinance

Letter from Glenn Thomas

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO CONFORM WITH THE MINIMUM BENEFITS OF CHAPTER 175, FLORIDA STATUTES; AMENDING SECTION SIX OF THE PLAN TO PROVIDE FOR NORMAL RETIREMENT AT AGE FIFTY-FIVE WITH TEN YEARS OF SERVICE; AMENDING SECTION EIGHT OF THE PLAN TO PROVIDE FOR MINIMUM DISABILITY BENEFITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has revised the requirements for firefighter pension funds receiving state monies under Chapter 175, Florida Statutes;

WHEREAS, the Town of Davie Firefighter Pension Plan receives Chapter 175 monies and is governed by the amendments to Chapter 175;

WHEREAS, the benefit improvements set forth herein do not exceed the Chapter money available for the purchase of required minimum benefits; and

WHEREAS, the Town of Davie Firefighter Pension Plan and the Town of Davie will, on a continuing basis, evaluate Chapter money received to ensure continued compliance with Chapter 175, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, THAT:

Section 1: Section Six of the Town of Davie Firefighters Pension Trust Fund is hereby amended to read as follows:

SECTION SIX. SERVICE RETIREMENT BENEFITS; COST OF LIVING ADJUSTMENTS.

- A. A member may retire on the first business day of the month coincident with or next following the date upon which the member completes twenty (20) years of credited service, regardless of age or upon the attainment of age fifty-five (55) with ten years of service. There shall be no mandatory retirement age.

Section 2: Section Eight (D) and Eight (E) of the Town of Davie Firefighters Pension Trust Fund are hereby amended to read as follows:

SECTION EIGHT DISABILITY

- D. The service-incurred disability benefit shall be paid in equal monthly installments in an amount equal to sixty-six and two-thirds (66 2/3%) percent of the member's salary at the time of disability retirement, reduced or offset, as allowed by law, by regular monthly amounts to which the disabled member is entitled to receive under Worker's Compensation. Under no circumstances shall Worker's Compensation offsets reduce a service-incurred disability benefit below forty-two (42%) percent of average monthly earnings or below the monthly accrued benefit on the date of disability.
- E. The non-service incurred disability benefit shall be paid on a monthly basis in an amount equal to two (2%) percent of final monthly compensation multiplied by the number of years of credited service, but shall not be more than fifty (50%) percent of final monthly

compensation multiplied by the number of years of credited service, reduced or offset, as allowed by law, by the regular monthly amounts to which the disabled member is entitled under Worker's Compensation. For the purposes of a non-service incurred disability benefit, final monthly compensation shall be determined as of the last day the member was actively at work for the Town of Davie. Under no circumstances shall Worker's Compensation offsets reduce a non-service incurred disability benefit below twenty-five (25%) percent of average monthly earnings or below the monthly accrued benefit on the date of disability.

Section 3: The benefit improvements provided for in Sections 1 and 2 of this ordinance have been determined to have an actuarial cost to the Plan. In accordance with Florida Statutes, Chapter 175, the cost of these benefits is to be funded exclusively from the increase in Chapter 175 insurance premium tax rebates over and above the level for the 1997 year. In the event that future Chapter 175 revenues are inadequate to maintain these benefits without an increase in the Town's contribution, the Town may, consistent with Florida law, prospectively amend the Plan to reduce these particular benefits. No such prospective reduction shall have the effect of divesting members or retirees of any rights accrued prior to such reduction. The Board of Trustees shall certify to the Town on an annual basis whether the Chapter 175 money is sufficient to maintain the benefits without an increase in the Town's contribution.

Section 4: If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

Section 5: All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 6: This Ordinance shall become effective immediately upon adoption.

PASSED on first reading by the Town Council of the Town of Davie, Florida, this _____ day of _____, 2005.

PASSED AND ADOPTED on the second reading by the Town Council of the Town of Davie, Florida, this _____ day of _____, 2005.

MAYOR/COUNCIL MEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2005

Coding: Words in stricken type are deletions from existing text.
Words in underline type are addition.



LEWIS, LONGMAN & WALKER, P.A.
ATTORNEYS AT LAW

Reply To: Tallahassee

August 22, 2005

Mr. Chris Kovanes,
Town Administrator
Town of Davie
6591 Orange Drive
Davie, FL 33314-3399

Re: Proposed Firefighter Pension Ordinances

Dear Mr. Kovanes:

This responds to a request by William Underwood to review two proposed ordinances. Upon adoption, the ordinances will revise certain provisions of the Town of Davie Firefighters' Pension Plan to implement the Collective Bargaining Agreement between the Town and firefighters' union and comply with minimum benefit provisions in Chapter 175, Florida Statutes. We have compared the content of those ordinances with the retirement articles contained in the CBA and Chapter 175, Florida Statutes, and our conclusions follow.

Ordinance One

Section 1 accurately implements the contribution provisions contained in Article 11 of the Collective Bargaining Agreement and complies with Chapter 175, Florida Statutes. We noticed, however what may be a typographical error under subsection A.1., line 2, in which the year 1976 appears. We believe the date should read October 1, 1986.

Section 2 properly implements the change in multiplier set forth in Article 11 of the CBA and complies with Chapter 175, Florida Statutes.

Section 3 provides that a member must have completed at least one year of creditable service to be eligible for the prior service buy-back. The revision properly implements the CBA and complies with Chapter 175.

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Tallahassee, Florida 32301
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Section 4 amends the deferred retirement option plan (DROP). The language employed in the Ordinance accurately tracks the language in the Collective Bargaining Agreement. The new provision provides, in part, that DROP participants whose DROP period expires may remain employed by the Town for one additional year. After the maximum six year DROP period has expired, no further retirement distribution will be added to the employee's DROP account and retirement benefits will thereafter be paid directly to the employee. This provision results in DROP participants prolonging their employment with the Town following the expiration of their DROP period and such employees who remain employed following the expiration of the DROP period will receive retirement benefit payments directly. Such extended employment is entirely at the discretion of the Town, which may approve or deny the extension based on staffing needs. This provision is not contrary to the provisions of Chapter 175, Florida Statutes.

Ordinance Two

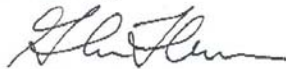
Section 1 provides for service retirement at age 55 with ten years of service in addition to the current requirement of twenty years of service, regardless of age. This revision complies with the minimum benefit provision in section 175.162, Florida Statutes.

Section 2 prohibits the reduction of disability benefits below 42% for service-incurred and 25% for non-service incurred, due to worker's compensation offsets. This revision complies with the minimum benefit provisions contained in section 175.191, Florida Statutes.

Section 3 provides that the above benefit improvements shall be funded exclusively from increases in insurance premium tax rebates. If future increases are not sufficient, the Town may reduce the benefits prospectively.

It is our opinion that the attached Ordinances comply with Florida law and where applicable, accurately reflects the terms of the Collective bargaining Agreement between the Town and the Davie Professional Firefighters Local 2315 AFL-CIO. Please call us if you have any further questions concerning these matters. With best regards, I am

Sincerely,



Glenn E. Thomas

Cc: William F. Underwood, II, Budget and Finance Director
Robert Klausner, Esquire, Pension Board Counsel

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